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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,064	02/03/2004	Reinhard Buhl	71219	2232
23872	7590	08/17/2004	EXAMINER	
MCGLEW & TUTTLE, PC 1 SCARBOROUGH STATION PLAZA SCARBOROUGH, NY 10510-0827			CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/771,064	BUHL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	<i>MW</i>
	Eric D Culbreth	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 03 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 2/3/04.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### *Specification*

1. The disclosure is objected to because of the following informalities:
  - a. On page 7, lines 8-9 “9” should apparently be “11” (part 9 is not in recess 16).
  - b. On page 7, line 11, it is not clear from the preceding text what “the component” is..

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 1, lines 1-2 there is no antecedent basis for “the axle suspension” nor for “the articulated connection”.
  - b. In claim 1, line 4 “a rubber-metal bearing” is not clear (i.e., rubber or metal, rubber and metal, etc.).
  - c. In claim 1, line 12 it is inaccurate to recite the stop faces fac[ing] away from each other (the stop faces engage portions of the pressing rings facing away from each other, but the stop faces actually face each other). Similarly, the stop faces are not arranged within the recess

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of the joint housing on axial outer sides of the elastomer body (again, these would be the pressing rings).

- d. In claim 1, line 12 “face” should be “facing” for proper verb tense.
- e. In the last line of claim 1, “an axial outer sides” is improper (i.e., “an” should be deleted).
- f. Regarding claim 3, it is not clear what makes the sleeves “shearing sleeves” (i.e., when is this limitation infringed).
- g. In claim 4, lines 10-11 there is no antecedent basis for “said tensioning device”.
- h. In claim 6, it is not clear what makes the sleeve a “shearing sleeve”.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 4 as best understood is rejected under 35 U.S.C. 102(b) as being anticipated by European Patent 1,120,299 (cited by applicant).

European ‘299 discloses a motor vehicle axle suspension steering triangle inasmuch as applicant’s invention comprising a first control arm and second control arm connected to the first control arm (9 in Figure 2) defining a joint housing 9b with a bearing space having stop faces in Figure 3. The triangle also includes a pivot part 15 with a spherical surface portion 13 and an elastomer body 12 extending around the spherical portion and accommodated in the

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bearing space. As seen in Figure 3 also, the elastomer body has first and second pressing rings and the walls of the housing 9b are a tensioning means as broadly recited moving the pressing rings toward each other by the tensioning means or device as indefinitely recited via the stop surfaces projecting inwardly at the edges of the housing 9b and engaging the pressing rings. The stop surfaces are hence in contact with the outer sides of the pressing rings.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 1 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over European '299 in view of McLaughlin et al (U.S Patent 6,231,264, cited by applicant).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify European '299, who teaches two arms connected together (9 in Figure 3) to

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form a joint housing at 9b, a rubber bearing 12 at column 1, line 46), a spherical bearing with a pivot axis at 15, and two pressing rings on the elastomeric or rubber body tensioned by stop surfaces projecting inward from the edges of the joint housing 9b in contact with the outer sides of the pressing rings, to include the spherical bearing being metal (hence a rubber-metal bearing as indefinitely recited) as taught by McLaughlin et al in order to form the bearing of currently used materials for such bearings (column 1, lines 58-62).

***Allowable Subject Matter***

9. Claims 2-3 and 5-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buhl et al is cited to show a spherical bearing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric D Culbreth  
Primary Examiner  
Art Unit 3616

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